

REMARKS

The Examiner rejects claims 1-3, 6, 8-13, 16, 18-20, 23-26, 29-36, and 39-46 under 35 U.S.C. 103(a) as being unpatentable over Fukuda (U.S. Patent No. 6,549,667) in view of Gobert (U.S. Patent Application Publication No. 2002/0080052 A1).

The Examiner rejects claim 21 under 35 U.S.C. 103(a) as being unpatentable over Fukuda (U.S. Patent No. 6,549,667) in view of Gobert as noted in the rejection of the claims above, in view of Lee (U.S. Patent No. 6,763,070).

Applicant respectfully asserts that Gobert is not a valid prior art reference. Specifically, in order to be used as a prior art reference under 35 U.S.C. 103(a), the reference must be classifiable under one of the sections of 35 U.S.C. 102. The Examiner has not indicated which section of 35 U.S.C. 102 Gobert allegedly falls into, but Applicant does not believe any of the sections apply. Specifically, 35 U.S.C. 102(a) does not apply because the date of publication of the Gobert reference is June 27, 2002, which is later than the filing date of the present application (June 27, 2001). 35 U.S.C. 102(b) also does not apply for the same reason. 35 U.S.C. 102(e) also does not apply because the European application filing date upon which the Gobert reference relies upon for priority is prior to November 29, 2000. According to M.P.E.P. 706.02(a)(II)(B):

No international filing dates prior to November 29, 2000 may be relied upon as a prior art date under **35 U.S.C. 102(e)** in accordance with the last sentence of the effective date provisions of Pub. L. 107-273. Patents issued directly, or indirectly, from international applications filed before November 29, 2000 may only be used as prior art based on the provisions of **35 U.S.C. 102(e)** in effect before November 29, 2000. Thus, the **35 U.S.C. 102(e)** date of such a prior art patent is the earliest of the date of compliance with **35 U.S.C. 371(c)(1)**, (2) and (4), or the filing date of the later-filed U.S. continuing application that claimed the benefit of the international application.

Thus, the 35 U.S.C. 102(e) date of Gerson is the earliest date of compliance with 35 U.S.C. 371(c)(1), (2), and (4) or the filing date of the later-filed U.S. continuing application that claimed the benefit of the international application. This date would be September 24, 2001, which is after the filing date of the present application.

As such, Applicant respectfully asserts that Gerson is not a valid prior art reference.

Furthermore, Applicant notes that the Examiner presumably relies upon the European application filing date as a priority date. While as discussed above Applicant maintains that

Gerson is not a valid prior art reference, Applicant also has attempted to locate the priority document in order to review it but was unable to locate this document after diligent effort. Specifically, Applicant search the European Patent Office, USPTO, and third party web sites searching for a European application with application number 00402674.6 as specified in Gerson, as well as conducting Inventor name and assignee name searches and could not locate the underlying European application. As the Examiner is aware, a priority document may or may not contain all of the same information as the document that is claiming priority to it. If the Examiner maintains the rejection, Applicant would like the opportunity to review the priority document to determine whether or not it contains the information relied upon by the Examiner. Applicant therefore respectfully requests that the Examiner furnish a copy of this priority document should a rejection with the Gerson reference be maintained.

Furthermore, Applicant respectfully asserts that the Office Action fails to establish a prima facie case for unpatentability as it apparently is referring to an outdated version of the claims, and Applicant cannot determine the basis for rejecting the current claims. Specifically, the Office Action asserts that Fukuda teaches “identifying zero patterns in the block of transform coefficients to derive zero pattern information, wherein identifying zero pattern comprises determining the location of zero values or near zero values for multiple rows and for multiple columns in the block of transform coefficients,,, and performing one-dimensional inverse transform on a subset of the total number of rows and columns in the block of transform coefficients by using zero pattern information.” Claim 1, however, was previous amended to alter this language and no longer refers to columns at all. Applicant, therefore, is confused as to the basis for the rejection of the current claims.

Furthermore, the Examiner asserts that Fukuda “identifies zero patterns across the rows and columns....” As described in previous Office Actions and successfully argued in a Pre-Appeal Brief request for review, Fukuda only identifies zero patterns across columns, not across rows, and also does not perform one-dimensional inverse transforms on a subset of the total number of rows.

For the above reasons, Applicant respectfully requests that the rejections be withdrawn.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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